

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHER DIVISION**

KIMBERLY FAYE KUNNA,

Plaintiff,

v.

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

Case No: 11-15273

HONORABLE DENISE PAGE HOOD

**ORDER ACCEPTING REPORT AND RECOMMENDATION
ON CROSS-MOTIONS FOR SUMMARY JUDGMENT
and DISMISSING ACTION**

This matter is before the Court on Magistrate Judge Charles E. Binder's Report and Recommendation filed June 26, 2012. To date, no Objections to the Report and Recommendation has been filed and the time to file such Objections has passed.

Judicial review of the Commissioner's decision is limited in scope to determining whether the findings of fact made by the Commissioner are supported by substantial evidence, and deciding whether the Commissioner employed the proper legal criteria in reaching his conclusion. *Garner v. Heckler*, 745 F.2d 383 (6th Cir. 1984). The credibility findings of an administrative law judge ("ALJ") must not be discarded lightly and should be accorded great deference. *Hardaway v. Secretary of Health and Human Services*, 823 F.2d 922, 928 (6th Cir. 1987). A district court's review of an ALJ's decision is not a *de novo* review. The district court may not resolve conflicts in the evidence nor decide questions of credibility. *Garner*, 745 F.2d at 397. The decision of the Commissioner must be upheld if supported by substantial evidence, even if the record might support a contrary decision or if the district court arrives at a different conclusion. *Smith v. Secretary of*

HHS, 893 F.2d 106, 108 (6th Cir. 1989); *Mullen v. Bowen*, 800 F.2d 535, 545 (6th Cir. 1986) (quoting *Baker v. Heckler*, 730 F.2d 1147, 1150 (8th Cir. 1984)).

The Court has had an opportunity to review this matter and finds that the Magistrate Judge reached the correct conclusion for the proper reasons. The Court agrees with the Magistrate Judge that the ALJ properly considered the underlying medical records and findings derived from physical examinations conducted by Plaintiff's treating physicians and that nothing in the records conflict with the ALJ's findings. The Court further agrees with the Magistrate Judge that the ALJ properly evaluated Plaintiff's credibility during her testimony regarding her medical condition. The Court also agrees with the Magistrate Judge that the ALJ properly relied on the vocational expert's testimony to determine the type of jobs available to Plaintiff in the national economy, given Plaintiff's limitations to perform certain tasks. This Court does not have the authority to reweigh the factual evidence before the ALJ if the ALJ's decision is supported by substantial evidence. Reviewing the medical record, the ALJ's decision and the Magistrate Judge's Report and Recommendation, the Court finds that the ALJ's opinion was based on substantial evidence.

Accordingly,

IT IS ORDERED that the Report and Recommendation of Magistrate Judge Charles E. Binder filed June 26, 2012 (**DE # 13**) is ACCEPTED and ADOPTED as this Court's findings and conclusions of law.

IT IS FURTHER ORDERED that Plaintiff's Motion for Summary Judgment (**DE #10, filed 3/6/2012**) is DENIED.

IT IS FURTHER ORDERED that Defendant's Motion for Summary Judgment (**DE #11, filed 4/6/2012**) is GRANTED. The Commissioner's decision is AFFIRMED.

IT IS FURTHER ORDERED that this action is DISMISSED with prejudice.

S/Denise Page Hood
Denise Page Hood
United States District Judge

Dated: July 31, 2012

I hereby certify that a copy of the foregoing document was served upon counsel of record on July 31, 2012, by electronic and/or ordinary mail.

S/LaShawn R. Saulsberry
Case Manager